

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

WESLEY D. WELLS,

Plaintiff,

vs.

TERRIE STEFALO, Montana State
Prison, Religious Activities
Coordinator, in her individual and
official capacity,

Defendant.

CV 20-7-H-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this case on January 13, 2021 (Doc. 17). Judge Johnston recommended that Defendants' Amended Petition (Doc. 7) should be DISMISSED for failure to exhaust, and that the Clerk of Court should be directed to enter by separate document a judgment of dismissal. *Id.*

Neither party filed objections to the Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error.

United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United*

States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 17) are **ADOPTED IN FULL**.

1. Defendant Stefalo's motion to dismiss (Doc. 12) as to failure to exhaust is **GRANTED**;
2. The motion to dismiss as to the other claims is **DENIED** as moot;
3. The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure; and
4. The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

DATED this 1st day of February, 2021.



Brian Morris, Chief District Judge
United States District Court